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SAN JUAN – GAC Discussion: IGO Protections for Red Cross & Red Crescent Protections  
Saturday, March 10, 2018 – 17:45 to 18:30 AST  
ICANN61 | San Juan, Puerto Rico

CHAIR ISMAIL: So now we are starting our discussion on agenda item item 6 on IGO protections and Red Cross & Red Crescent that is scheduled at 17:45 on Saturday, 10 March. And the session is for 45 minutes. And again, please remember to state your name and affiliation for transcript purposes when you take the floor. Thank you.

So again, Tom can you take us quickly through the topic? And then we can open the floor for discussion. Thank you.

TOM DALE: Yes. Thank you Manal. The this item has been included on the GAC schedule as it contains a number of separate but related issues that the GAC has had had concerns with, and has indeed provided advice to the Board on for the last several meetings.

Very briefly there are 4 of them. The first concerns work on the implementation of consensus policy on protections for IGO names and acronyms. Consensus policy means that's areas but where the GNSO recommendations on such and indeed the GAC vice on those protections actually agrees and ICANN support

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staff have been working with IGOs through GAC observers including the RACDN power to try to determine appropriate lists of items for protection. That work is still proceeding and has not been controversial.

The second item which the GAC has been raising concerns on for some time now – and by that, for some people in ICANN usually means at least 2 years or more – and that is the case here. This concerns a policy development process which is still current, which deals with IGO. IGO. To those that have could many in late that meant cure I of rights is rights for intellectual property holders in this case IGO intergovernmental organizations to exercise those rights in a curative way, that is after a problem occurred to try to fix the problem rather than to prevent the problems the first place. That is a different set of issues. That particular works group was expected to provide a report which the GAC said in Abu Dhabi it had some concerns about.

However, the process is effectively on hold at the moment because the PDP has some internal disagreements with a final report, and it was hoped that they would produce such a report for this meeting, for this ICANN meeting. That has not happened and it's not clear at the present time when the report that have working group will be agreed, and published. It may be in the next few months, but that's taking a guess. It is certainly possible for GAC to raise the issue with – in its meeting with the

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GNSO council which is I think tomorrow but at the moment that's all I'm able to tell you from official information.

The third issue concerns facilitated discussions of unresolved issues, and that was a reference to a process that occurred at the Copenhagen meeting last year and facilitated by a former Board member, Dr. Bruce Tonkin and while it addressed some issues that were at that meeting there's been no further activity so it's noted as not progressing since then. No one has raised concerns about that. The 4th issue is the question of protections for certain names and acronyms relevant to the international Red Cross & Red Crescent movements and that again has been a long running concern for a number of GAC members, and my understanding is the situation has not changed significantly since the Abu Dhabi meeting.

There is a reconvened PDP working group which is working through those issues. We were informed at the last meeting that the secretariat of the national Red Cross had been working with them, and were happy with the progress that was made on developing some additional protections, but I received no information that there has been any conclusion to that exercise, so that's continuing, and if I guess the assumption is that if no GAC members are combining and the Red Cross secretariat is not expressing concerns then it's probably not a problem however these all had to be included as an update for you. And

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that is plus the additional more specific information contained in the brief is all I have to say for the moment. Thank you Manal.

CHAIR ISMAIL: Thank you, Tom, very much. So, I open the floor for discussion, or questions? Do I have

BRIAN BECKHAM: World Intellectual Property Organization. I want to say first that we are here on behalf of a coalition of IGOs who have support this had topic for a number of years notably the OACD who send apologies. I also wanted to recall for the GAC that IGOs are unique treaty based institutions created with special status under international law. They shared goals such as peace and security. Sustainable development, human rights, public health. The environment. International law and humanitarian relief. Further to these missions and special status under international law for some years now IGOs and the GAC sought a limited degree of protection for identifiers in the DNS and I wanted to pick up where Tom left off on the curative rights protection working group that's looking at this issue, and why this curative rights protection working group is so important is you may recall that the United Nations secretary general wrote to member states raising that one of the easiest ways to protect acronyms would have been to block those terms from registration in new

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gTLDs. IGOs recognized however that co existence principles meant these terms shouldn't be permanently blocked from other organizations that might have acronym that is also corresponds to these terms. So I mention that to say that IGOs are aware of a need to compromise in those processes.

That said, in the Abu Dhabi communique the language stated that the GAC recalls its longstanding advice on the topic of IGO protections and is closely monitoring the ongoing PDP on IGO access to curative rights protection mechanisms and the GAC remained open to working with the GNSO to find mutually agreeable solution to the issue. In the advice the GAC also stated that it recalls the values of openness. Transparency and inclusion, and representativeness and process integrity that are respectively in aligned in ICANN as bylaws and GNSO operating procedures and GAC advised the Board to review the decisions on the issue in order to ensure they were compatible with these values in reflect the factual record. The boards response to this advice was that while it maintained a strong interest in the outcome of this PDP, the responsibility for management of the process was with the GNSO, and as Tom mentioned although we were expecting an initial report will been done to recommend actions inconsistent with GAC advice and I recall here in the Los Angeles communique the GAC advised on who topic the EDRP should not be amended. This is precisely what the

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working group processed in the initial report and what we expect to be the outcome in the final report but due to a range of complicated policy and procedural disagreements in the working group it's been at a standstill for several months and we don't have a final report yet to consider this meeting.

At this ICANN meeting here in Puerto Rico the chair proposed to hold a session to be run as what she's called a form of open office hours to discuss working group views and questions in respect of this issue. And notably and seeming concerns raised in the Abu Dhabi communique recommended the ... options put forward in the WOOSHing group draft report fulfill the goals. As things currently stand IGO continue to maintain they do not. We have also seen the GNSO chair straw man paper submitted in support of the open office hour session seems to recognize the conclusion and process integrity concerns raised in the Abu Dhabi communique. In some we continue to have concerns about the previously forecasted working group recommendations but see the GNSO counsel chair proposed session this week as a potentially positive step forward to recycling the current conflict between long standing GAC advice on this topic and the currently anticipated GNSO working group recommendations. Thank you.

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CHAIR ISMAIL: Thank you very much. Thank you. So any further comments or requests for the floor? Yes, U.S. please.

UNITED STATES: Thank you, Brian, for that update. With respect to the information you just indicated with respect to being open for business or business hours. What exactly does that mean? And how can we take advantage of that thank.

BRIAN BECKHAM: It's a create I've solution that's hoping to take us forward. Obviously we will participates in that session but that's as much as we know at the time being.

CHAIR ISMAIL: So maybe this is a question that we can ask to the GNSO in our bilateral tomorrow? So any further... Yes, Switzerland please.

SWITZERLAND: Yes. Thank you. Of first thanks to Tom for informing us on the different streams of work, and also thanks to Brian for this information about the PDP working group on curative protections. I would like to support what Brian said on the position of the IGOs and I would also like to note that in the Board response to our Abu Dhabi advice, the Board stated that it

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remains committed to facilitating discussions between all affected parties in case conflicts may arise so I hope in says such issues come forward, the Board keeps playing a facilitating role between all the parties.

As to the protections of the Red Cross, which is dealt with in other PDP working group, the reconvened PDP working group to be more exact on IGOs. I've been trying to follow that work, and I've seen that the ICRC the Red Cross secretariat is working very closely with the members of that PDP working group, and also with the ICANN support staff, and they are planning to develop a list of of protected terms related to the national societies of the Red Cross from here up to the end of April.

If I'm not mistaken, but so far so good. The work is progressing well, I think, and I hope that after April we may have a good conclusion from the first workings of this PDP, and that by ICANN62 we may have more stable result, and hopefully revised recommendations from this PDP working group, which would be consistent be with prior GAC advice, and with the results of the facilitated discussions we had in Copenhagen on this matter, with the GNSO. Thank you.



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CHAIR ISMAIL: Thank you Switzerland, and it's good to hear about this progress. Any further comments or requests for the floor? So, France?

FRANCE: Thanks just very briefly because it's become to be late and I am apparently I'm the last speaker but I would like to thank Brian... like to support IGOs and what Brian said very eloquently. I think he said everything that is needed to be said. I also agreed with what Switzerland said, you know the issue basically that we have conflicting GAC advice and GNSO recommendations and if there's no commitment from the Board to play its role as a facilitator unfortunately, I don't think things will move forward. Nothing will map. So we really need the Board to take this role seriously, as a facilitator, and actually I'm wondering who on the Board is supposed to you know to deal with the issues? But really, if you want things to move forward we need the Board to be much more involved, and willing to achieve some results, because otherwise unfortunately, it will just stay there forever. So, thanks.

CHAIR ISMAIL: Thank you France, and I think we also have this topic on our joint session with the Board, so, so if there are no further requests for the floor, I would encourage you for your

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clarification questions, clarifications or questions ready for our discussion tomorrow with the GNSO council, and with the Board if any we have those sessions in this coming week, so I would encourage you to benefit from the support unity and have your questions, and remarks addressed, so if there are no further comments, then we will be closing this session early, and we have some time yeah, we have a break until 6:30. So this concludes our discussion on the IGO, INGO protections and please be back in the room at 6:30, we are having our last session for the day, which is the GAC working group so please we are going to start at 6:30. Thank you.

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